

April 18, 1980

LR 345
LB 283, 628, 968, 1004

that, I have a response from the Department of Revenue pursuant to LR 345. That will be inserted in the Journal. (See pages 1958 and 1959 of the Journal.) Attorney General Opinions addressed to Senator Schmit on LB 283, Senator DeCamp on LB 283, Senator DeCamp on LB 1004, Senator DeCamp on a proposed constitutional amendment, and Senator Marsh on LB 968. (See pages 1959 through 1969 of the Legislative Journal.)

Mr. President, I have a motion on the desk.

PRESIDENT: Read the motion.

CLERK: Mr. President, Senator Haberman moves to return LB 628 to Select File for a specific amendment, that amendment being on page 5, line 10, strike the word "ten" and reinstate "three".

PRESIDENT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, I have passed out and on your desk is a copy of my amendment. I did not initial it. I am sorry for this. I will read the amendment as I wish it to go into the record. I would like to have you follow me on the letter, if you would, please. Reading Section 19, Article 3 of the Nebraska State Constitution, one would have reason to doubt the constitutionality of increasing the compensation paid to a sheriff as jailer as provided in LB 628. There is no doubt that the jailer fee is considered to be compensation when the sheriff's salary is set by the county board. By the Legislature increasing the jailer's fee from \$3.00 per day to \$10.00 per day it would mandate an increase in compensation to the sheriffs of the State of Nebraska, not in 1983 but in 1980, 1981 and 1982. Quoting Section 19, Article 3 of the Constitution of the State of Nebraska, quote: "Nor shall the compensation of any public officer, including any officer whose compensation is fixed by the Legislature, be increased or diminished during his term of office." It is quite evident that the fee paid to a sheriff for serving as jailer constitutes compensation to the sheriff and thereby would seem to be constitutionally suspect as described in Section 19, Article 3. The Legislature should bear in mind that with the passage of LB 628 they will, in effect, be raising the sheriffs' salaries in the State of Nebraska in all of the counties with the exception of Douglas and Lancaster Counties, \$210.00 per month. There is no doubt that this has to be compensation when there has been no debate on the floor of the Legislature